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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Lawrence L. Gilgen;

Plaintiff,

v.

Utah Billing & Recovery, LLC;

Defendant.

No.

COMPLAINT

(Jury Trial Demanded)

I. PRELIMINARY STATEMENT

1. Plaintiff brings this action for damages based upon Defendant's violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §§ 1692 *et seq.* Plaintiff seeks to recover statutory damages, actual damages, costs and attorney's fees.

II. JURISDICTION

2. Jurisdiction of this Court, over this action and the parties herein, arises under 15 U.S.C. § 1692k(d) (FDCPA), and 28 U.S.C. § 1331. Venue

1 lies in the Phoenix Division of the District of Arizona as Plaintiff's
2 claims arose from acts of the Defendant perpetrated therein.

3 **III. PARTIES**

4 3. Plaintiff Lawrence L. Gilgen is a resident of Maricopa County, Ari-
5 zona.

6 4. Mr. Gilgen is a natural person who is allegedly obligated to pay a debt
7 which was incurred for personal, family, or household purposes.

8 5. Mr. Gilgen is a "consumer" as that term is defined by FDCPA §
9 1692a(3).

10 6. Defendant Utah Billing & Recovery, LLC ("Utah Billing") is a foreign
11 limited liability company.

12 7. Utah Billing collects or attempts to collect debts owed or asserted to be
13 owed or due another, or debts which it claims to have purchased or
14 been assigned after default.

15 8. Utah Billing is a "debt collector" as that term is defined by FDCPA §
16 1692a(6).

17 **IV. FACTUAL ALLEGATIONS**

18 9. In January or February 2015, Mr. Gilgen went to Valley King Realty in
19 order to rent a home for his family.

20 10. Valley King pulled a credit report on Mr. Gilgen and told him that he
21 would not qualify to rent a home due to information on his credit report
22 which was being reported by Utah Billing.

23 11. Plaintiff learned that Utah Billing was reporting two collection ac-
24 counts on his credit report; one in the amount of \$1,019 ("First Ac-
25 count"), and one in the amount of \$5,285 ("Second Account").

- 1 12. Mr. Gilgen immediately called Utah Billing concerning the two ac-
2 counts, and spoke to one of its collectors.
- 3 13. The collector told Mr. Gilgen that he owed a total of \$6,400.
- 4 14. Mr. Gilgen told the collector that he knew he owed something on the
5 First Account, but disputed owing the Second Account.
- 6 15. The collector then transferred the call to Roger, another collector for
7 Utah Billing.
- 8 16. While on the phone with Mr. Gilgen, Roger reviewed Utah Billing's
9 records and ultimately agreed that Mr. Gilgen did not owe the Second
10 Account.
- 11 17. Roger also told Mr. Gilgen that Utah Billing should not have reported
12 the Second Account to the credit bureaus.
- 13 18. During this conversation, it was learned that the Second Account
14 belonged to Mr. Gilgen's step-brother, but it had been reported with
15 Mr. Gilgen's social security number.
- 16 19. Roger explained that Utah Billing regularly updated accounts to the
17 credit bureaus on the 17th of the month, and told Mr. Gilgen that it
18 would request removal of the Second Account at that time.
- 19 20. Mr. Gilgen asked Roger to immediately request that the credit bureaus
20 remove the Second Account, explaining that he was trying to rent a
21 home for his family.
- 22 21. Roger, however, attempted to coerce Mr. Gilgen into immediately
23 paying the First Account by telling him that Utah Billing would require
24 that it be paid first, before Utah Billing would agree to request an
25 immediate removal of the Second Account.

- 1 22. Mr. Gilgen then told Roger that he would only pay the First Account
2 after Utah Billing had removed the Second Account from the credit
3 bureaus.
- 4 23. As of March 4, 2015, the Second Account is still reporting on Mr.
5 Gilgen's Experian credit report.
- 6 24. Utah Billing has failed to send Mr. Gilgen, within five days of their
7 initial communication, a written communication concerning the Second
8 Account informing Mr. Gilgen of his verification / validation rights
9 under the FDCPA, 15 U.S.C. § 1692g(a).
- 10 25. Utah Billing reported the Second Account to Experian to assist it in
11 attempting to collect a debt.
- 12 26. Upon information and belief, Utah Billing provided false information
13 to the credit bureaus, including an incorrect name, address, Social
14 Security Number and / or date of birth, which caused the Second
15 Account to appear on Mr. Gilgen's credit report.
- 16 27. As a result of Defendant's actions as outlined above, Mr. Gilgen has
17 suffered damages including, but not limited to, economic loss, loss of
18 credit opportunities, embarrassment, humiliation, and other extreme
19 emotional distress.
- 20 28. Defendant's actions as outlined above were intentional, willful, and in
21 gross or reckless disregard of Plaintiff's rights and part of Defendant's
22 persistent and routine practice of debt collection.
- 23 29. In the alternative, Defendant's actions were negligent.

24 **V. CAUSES OF ACTION**
25 **Fair Debt Collection Practices Act**

1 30. Plaintiff repeats, realleges, and incorporates by reference the foregoing
2 paragraphs.

3 31. Defendant's violations of the FDCPA include, but are not necessarily
4 limited to, 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e(5), 1692e(8),
5 1692e(10), 1692e(11), 1692f, 1692f(1), and 1692g

6 32. As a direct result and proximate cause of Defendant's actions in viola-
7 tion of the FDCPA, Plaintiff has suffered actual damages.

8 **VI. DEMAND FOR JURY TRIAL**

9 Plaintiff hereby demands a jury trial on all issues so triable.

10 **VII. PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff requests that judgment be entered against
12 Defendant for:

- 13 a) Actual damages to be determined by the jury;
14 b) Statutory damages;
15 c) Costs and reasonable attorney's fees; and
16 d) Such other relief as may be just and proper.

17
18 DATED March 5, 2015.

19
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